Case: 1:21-mj-00196
Assigned to: Judge Harvey, G. Michael
Assign Date: 2/3/2021
Description: COMPLAINT W/ARREST WARRANT

STATEMENT OF FACTS

On January 6, 2021, your affiant, [redacted] was on duty and performing my official duties as a Special Agent. Specifically, I am assigned to the FBI Washington Field Office, tasked with investigating criminal activity in and around the Capitol grounds. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of Federal criminal laws.

Unless otherwise stated, the information in this Affidavit is either personally known to me, has been provided to me by other individuals, or is based on a review of various documents, records, and reports. Because this Affidavit is submitted for the limited purpose of establishing probable cause to support an application for a complaint and arrest warrant, it does not contain every fact known by me or the United States.

Background: January 6, 2021 at the U.S. Capitol

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification are allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Michael Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Michael Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President

Michael Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

Facts Specific to this Application

Based on my participation in the investigation, I submit that there is probable cause to believe Elias COSTIANES ("COSTIANES") participated in the obstruction of Congressional proceedings at, unlawful entry into, and related offenses at the United States Capitol Building on January 6, 2021, based on the following evidence.

On January 8, 2021, a member of the public who asked that their identity be protected submitted an online tip to the FBI National Threat Operations Center via tips.fbi.gov, and identified COSTIANES as the user of Snapchat handle, eliaswv78, and further reported that COSTIANES posted two videos to his Snapchat account which depicted his participation in the riot of the U.S. Capitol on January 6, 2021.

On January 19, 2021, the member of the public provided two videos to the FBI. For clarity of this warrant, the videos will be referred to as follows:

Video Number	**"Live" Video File ID**	**Approximate Time Posted**	**Apparent Location**
"Live Video 1"	VID-20210118-WA0004	2021-01-06 at 10:18 AM[1]	Outside and Inside of the Capitol Building
"Live Video 2"	VID-20210118-WA0005	No time stamp visible	Outside and Inside of the Capitol Building

[1] This time stamp appears to have been inserted by Snapchat and/or the user, and might not reflect the time of events depicted in the video.

In **Live Video 1**, initially shot from outside the Capitol building, COSTIANES turned the camera towards his face at approximately the 00:03 minute mark[2]. Based on a preliminary comparison between COSTIANES's drivers' license photo, the still images captured from **Live Video 1**, and additional images captured from a U.S. Senate camera, as further referenced below, I believe that COSTIANES operated the device that captured his participation in the U.S. Capitol riot on January 6, 2021.

Beginning of video	COSTIANES MVA Photo	End of Live Video-1

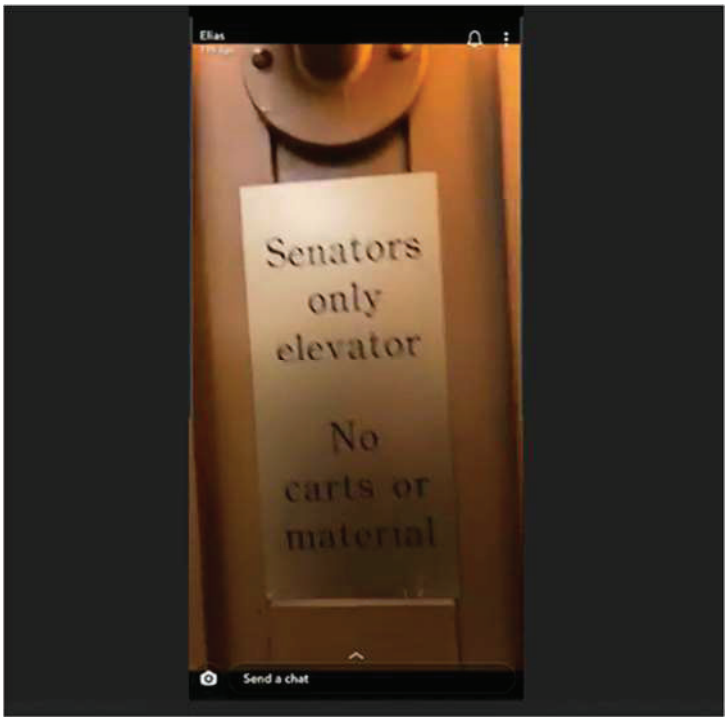
In **Live Video 1**, shot from outside the Capitol building, a male voice which is heard in both videos with a consistent pitch and tone, who I believe to be COSTIANES,[3] said "Mitch McConnell's a traitor" as he ascended the stairs at the 00:14 minute mark. I believe that COSTIANES was referring to Mitch McConnell, then the Majority Leader of the U.S. Senate.

In **Live Video 1**, shot from inside the Capitol building, a male voice which is heard in both videos with a consistent pitch and tone, who I believe to be COSTIANES, said "Commandeered the Senators only" at the 5:00 minute mark.

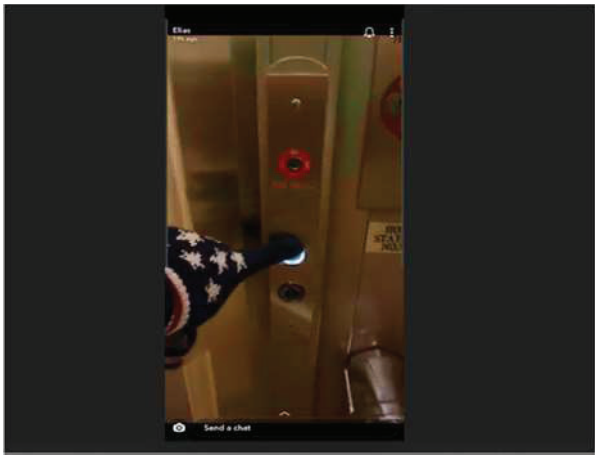
[2] The minute marks mentioned throughout this affidavit refer to the minute marks of the videos provided by the member of the public. They do not reflect the actual time of the occurrences described.

[3] Based on my review of **Live Video 1** and **Live Video 2**, I submit there is probable cause to believe that this voice is that of the person operation the video camera. As also explained herein, there is probable cause to believe that the person making the recording is COSTIANES.

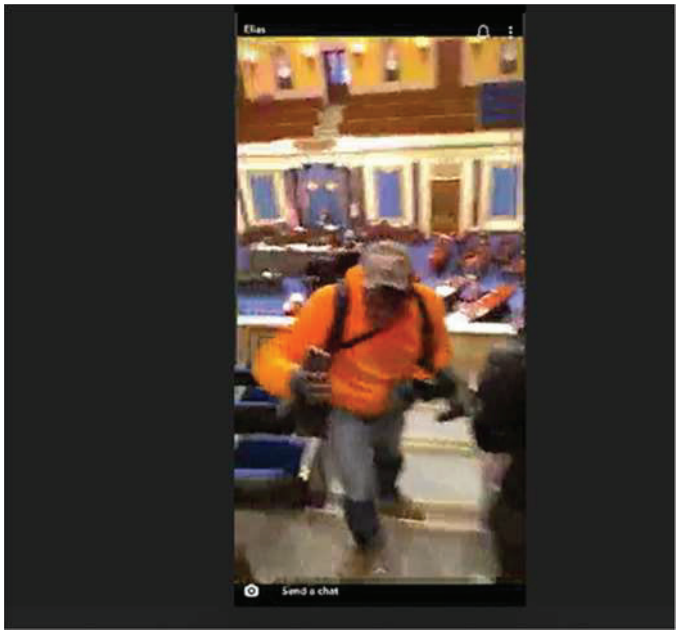
In **Live Video 1**, shot from inside the Capitol building, COSTIANES approached a "Senators Only" elevator at the 5:05 minute mark.



In **Live Video 1**, shot from inside the Capitol building, COSTIANES or a person in close proximity to COSTIANES pressed the "Senators Only" elevator button at the 5:07 minute mark.

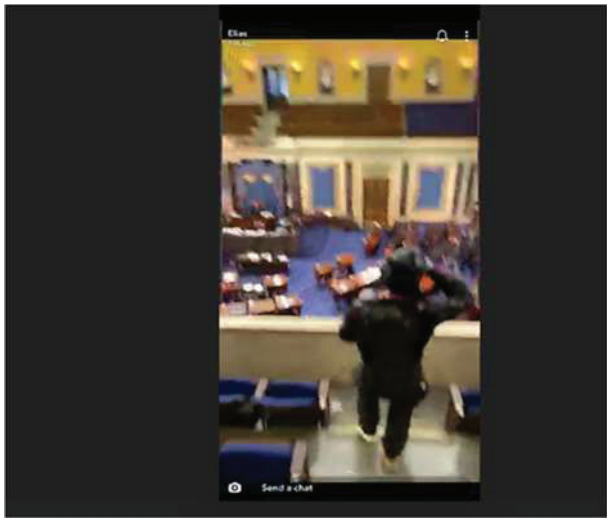


In **Live Video 1**, shot from inside the Capitol building, COSTIANES entered the second level of the U.S. Senate and recorded a male in an orange sweatshirt ascend the stairs towards him at the 5:17 minute mark.



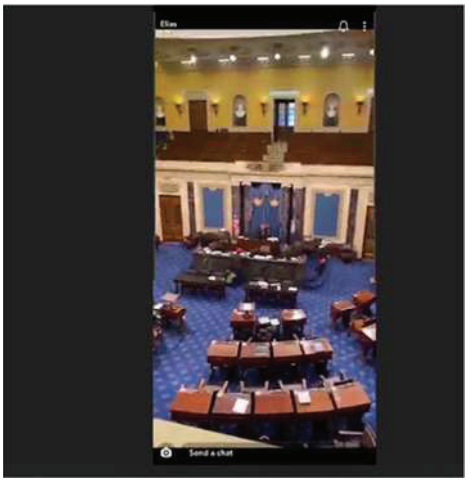
In **Live Video 1**, shot from inside the Capitol building, a male voice which is heard in both videos with a consistent pitch and tone, who I believe to be COSTIANES, said "Oh my God" as he entered the second level of the U.S. Senate that overlooked the Senate floor at the 5:17 minute mark.

In **Live Video 1**, shot from inside the Capitol building, COSTIANES descended the stairs behind a male wearing a helmet at the 5:25 minute mark.



In **Live Video 1**, shot from inside the Capitol building, an unidentified male voice, at a distance from COSTIANES, said "Take everything" at the 5:26 minute mark.

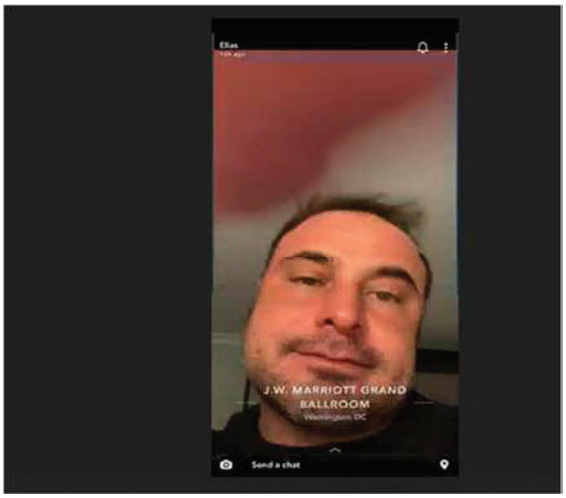
In **Live Video 1**, shot from inside the Capitol building, COSTIANES took a position that overlooked the floor of the U.S. Senate at the 05:32 minute mark.



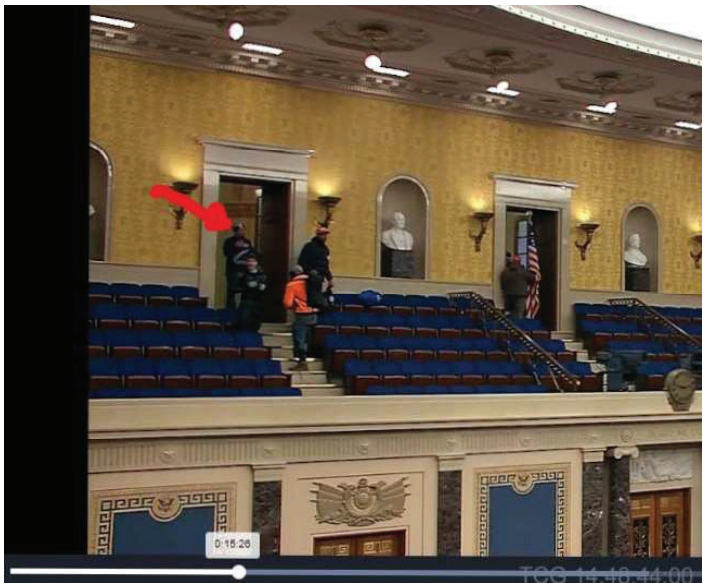
In **Live Video 1**, shot from inside the Capitol building, a male voice which is heard in both videos with a consistent pitch and tone, who I believe to be COSTIANES, said "You can't take their stuff" at the 5:32 minute mark.

In **Live Video 1**, shot from inside the Capitol building, a male voice which is heard in both videos with a consistent pitch and tone, who I believe to be COSTIANES, said "What the fuck, I guess when you ride the Senators elevator" as the camera panned around the second level of the U.S. Senate at the 5:40 minute mark.

In **Live Video 1**, shot from an unknown location[4], COSTIANES turned the camera towards his face at the 6:10 minute mark.



On January 23, 2021, your affiant reviewed video feed taken by U.S. Senate cameras that captured COSTIANES standing in a doorway to the second level of the U.S. Senate as a man in an orange sweatshirt ascended the stairs towards COSTIANES at approximately 14:48:44:00[5].



[4] It is possible that the text overlaying this portion of the video—"J.W. MARRIOTT GRAND BALLROOM"—reflects COSTIANES' location.

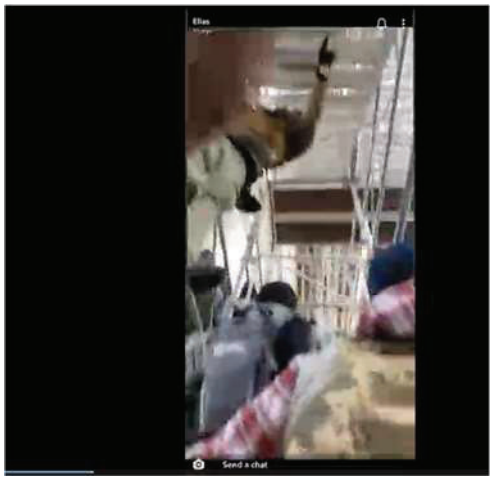
[5] The U.S. Senate camera feed displayed a running clock preceded by TCG at the bottom of the screen.

On January 23, 2021, your affiant reviewed video feed taken by U.S. Senate cameras that identified COSTIANES standing close to a male wearing a helmet as they both took a position that overlooked the floor of the U.S. Senate at approximately 14:49:03:48.

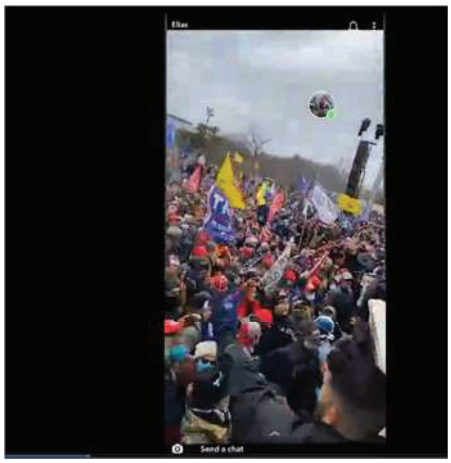
In **Live Video 2**, initially shot from outside the Capitol building, a male voice, which is heard in both videos with a consistent pitch and tone, who I believe to be COSTIANES, said "Holy shit they broke into the Capitol" at the 00:05 minute mark.

In **Live Video 2**, initially shot from outside the Capitol building, a male voice, which is heard in both videos with a consistent pitch and tone, who I believe to be COSTIANES, said "Let's go" at the 2:24 minute mark.

In **Live Video 2**, initially shot from outside the Capitol building, COSTIANES climbed up the scaffolding at the 3:18 minute mark.



In **Live Video 2**, initially shot from outside the Capitol building, COSTIANES turned the camera towards the crowd below him after he ascended the scaffolding at the 3:28 minute mark.



In **Live Video 2**, initially shot from outside the Capitol building, COSTIANES filmed his ascent up the stairs at the 3:52 minute mark.

In **Live Video 2**, initially shot from outside the Capitol building, a male voice, which is heard in both videos with a consistent pitch and tone, who I believe to be COSTIANES, said "Traitor" at the 3:54 minute mark.

In **Live Video 2**, initially shot from outside the Capitol building, COSTIANES turned the camera towards the National Mall from the terrace of the Capitol building at the 4:16 minute mark.

In **Live Video 2**, initially shot from outside the Capitol building, COSTIANES filmed his approach towards an entrance at the 5:24 minute mark.

In **Live Video 2**, shot from inside the Capitol building, COSTIANES ascended a flight of stairs at the 8:22 minute mark.

In **Live Video 2**, shot from inside the Capitol building, a male voice, which is heard in both videos with a consistent pitch and tone, who I believe to be COSTIANES, said "Speaker of the House" as those around him chanted, "Nancy", at the 8:28 minute mark.[6]

In **Live Video 2**, shot from inside the Capitol building, COSTIANES turned the camera towards a placard for Speaker of the House Nancy Pelosi at the 8:38 minute mark.

[6] The audio is consistent with the same utterance of "Speaker of the House" at the 1:10 minute mark of **Live Video 1**.

In **Live Video 2**, shot from inside the Capitol building, COSTIANES turned the camera towards a doorway guarded by a law enforcement officer at the 10:33 minute mark.

In **Live Video 2**, shot from inside the Capitol building, a male voice, which is heard in both videos with a consistent pitch and tone, who I believe to be COSTIANES, said "Open the fucking doors" at the 10:56 minute mark.

In **Live Video 2**, shot from inside the Capitol building, a male voice, which is heard in both videos with a consistent pitch and tone, who I believe to be COSTIANES, said "Let's go" at the 11:20 mark.

In **Live Video 2**, shot from inside the Capitol building, COSTIANES turned the camera towards the same doorway after it was overrun at the 11:35 minute mark.

In **Live Video 2**, shot from inside the Capitol building, a male voice, which is heard in both videos with a consistent pitch and tone, who I believe to be COSTIANES, said "Yeah" at the time others overran the doorway at the 11:35 mark.[7]

Based on the foregoing, your affiant submits that there is probable cause to believe that Elias COSTIANES violated 18 U.S.C. § 1512(c)(2), which makes it a crime to corruptly obstruct, influence, or impede an official proceeding, and to attempt to do so. A proceeding before Congress is an "official proceeding" for purposes of 18 U.S.C. § 1512(c)(2) as defined in 18 U.S.C. § 1515(a)(1)(B).

Your affiant submits there is also probable cause to believe that Elias COSTIANES violated 18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a "restricted building" includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

Your affiant submits there is also probable cause to believe that Elias COSTIANES violated 40 U.S.C. § 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly (D) engage in disorderly and disruptive conduct in any of the Capitol Buildings with the intent to impede, disrupt, and disturb the orderly conduct of a session of Congress and either House of Congress, and the orderly conduct in that building of a hearing before or any deliberation of, a committee of Congress or either House of Congress; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

[redacted]
FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 3rd day of February 2021.

Digitally signed by G. Michael Harvey
Date: 2021.02.03 12:31:28 -05'00'

G. MICHAEL HARVEY
UNITED STATES MAGISTRATE JUDGE

[7] The audio is consistent with the same utterance of "Yeah" at the 3:08 minute mark of **Live Video 1**.